

REMARKS**1. Section 3 of the Office Action: Rejection of Claims 1-3, 8, and 15-21 under 35 USC §102 in view of U.S. Patent 3,789,953 to Everitt**

Everitt describes an enclosure made of nested members 20, 30, and 40 (Fig. 3, see column 2 line 62-column 3 line 13) wherein the outermost member 40 (depicted in Fig. 3 with top and bottom walls 41 and 42, see column 3 line 61-column 4 line 6) defines what may be regarded as a peripheral edge for the interior of the enclosure. A baffle board 50 (Figs. 2 and 3, see column 5 lines 43-68) is fit within member 40 in front of member 30, and a grille cloth 55 (Figs. 2 and 3, see column 5 lines 56-63) is stretched over the baffle board 50 and its peripheral edges; note particularly Fig. 2.

Claim 1 is therefore plainly not anticipated by *Everitt* since *Everitt's* grill does not extend across the peripheral edge of the backbox, as recited in clause (a) of claim 1, and rather rests entirely within *Everitt's* backbox (and its peripheral edge). Similarly, claims 8 and 15 are plainly not anticipated by *Everitt* since the grill is not crimped about the peripheral edge of the backbox as recited in clause (b) of claim 8 and clause (d) of claim 15. Anticipation under 35 U.S.C. §102 requires that each and every limitation recited by the claim be found in a single prior art reference, a condition which is not present here.¹ If the rejections are maintained, a more detailed explanation setting forth all limitations of the claims and the corresponding disclosures in the prior

¹ MPEP 2131. "To anticipate, every element and limitation of the claimed invention must be found in a single prior art reference, arranged as in the claim" (*Brown v. 3M*, 60 USPQ2d 1375, 1376 (Fed. Cir. 2001); see also *Karsten Mfg. Corp. v. Cleveland Golf Co.*, 58 USPQ2d 1286, 1291 (Fed. Cir. 2001); *Sandt Technology Ltd. v. Resco Metal and Plastics Corp.*, 60 USPQ2d 1091, 1094 (Fed. Cir. 2001)). In addition, the reference must be enabling and describe the applicant's claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention. *In re Paulsen*, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994); see also *In re Schreiber*, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997).

art would be appreciated, more particularly, a specific indication of how *Everitt* provides a grill extending across the peripheral edge of the backbox is requested.²

Regarding claim 2, *Everitt*'s grill is only releasably attached to the backbox insofar as the baffle board 50 might be regarded as removable from *Everitt*'s enclosure. Regarding claim 3, *Everitt*'s grill is plainly not crimped about the peripheral edge of the backbox; rather, it is crimped about the baffle board 50 within the backbox.

At least claims 1, 3, 8, and 15 are therefore not anticipated by *Everitt*, and are therefore allowable since these claims are not subject to any other rejections. Additionally, the following comments are provided to expedite processing of the application. It is also not seen how it would be obvious from the references of record, or the ordinary knowledge of one of ordinary skill in the art, to obtain the claimed invention from *Everitt*. *Everitt* is intended to provide a speaker having modular construction with parts which are readily interfit to create the speaker enclosure (see, e.g., column 4 lines 29-35). If one then takes the perspective of an ordinary artisan in the field, and looks to the state of the art at the time the invention was made (while placing all knowledge of the invention out of mind), it is seen that there is nothing that would truly and objectively lead one to modify *Everitt* to place *Everitt*'s grill cloth 55 about the peripheral edges of member 40, rather than about the baffle board 50, particularly since this would close member 40's front opening and thereby eliminate the rapid assembly/disassembly provided by the embodiments of *Everitt*: members 20 and 30, and baffle board 50, would no longer be insertable into the front opening of 40 (or would not be removable therefrom, unless the grill cloth 55 was removed first). Additionally, placing *Everitt*'s grill cloth 55 about the peripheral edges of member 40 would leave the edges of the grill cloth exposed about the exterior of the speaker, which would both be unsightly and would make the grill cloth more susceptible to accidental tearing off. Thus,

² "[I]t is incumbent upon the examiner to identify wherein each and every facet of the claimed invention is disclosed in the applied reference." *Ex parte Levy*, 17 USPQ2d 1461, 1462 (Bd. Pat. App. & Int. 1990), citing to *Lindemann Maschinenfabrik GmbH v. American Hoist and Derrick*, 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984); see also MPEP 707.07(d); 37 CFR §1.104(c)(2).

one looking to improve *Everitt* would not place *Everitt*'s grill cloth 55 about the peripheral edges of member 40 since this modification would have no apparent benefit; most importantly, this modification has no benefit recognized and suggested by the prior art. See MPEP 2143.01 (subsection entitled "The Prior Art Must Suggest The Desirability Of The Claimed Invention"). Further, the modification would in fact be disadvantageous to *Everitt* because it would prohibit rapid assembly/disassembly. See MPEP 2143.01 (subsection entitled "The Proposed Modification Cannot Render The Prior Art Unsatisfactory For Its Intended Purpose"). Thus, if the prior art is objectively reviewed without prior knowledge of the invention (i.e., without hindsight), it is seen that the teachings of the art do not lead one to the invention claimed.

It is therefore submitted that the current claims are novel and unobvious in view of all art of record, and allowance of the claims is requested.

2. Section 4 of the Office Action: Rejection of Claims 4-7 and 9-13 under 35 USC §102 in view of U.S. Patent 3,789,953 to *Everitt*

These rejections are moot in view of the arguments set out at the foregoing Section 1 of this Response.

3. In Closing

If any questions regarding the application arise, please contact the undersigned attorney. Telephone calls related to this application are welcomed and encouraged. The Commissioner is authorized to charge any fees or credit any overpayments relating to this application to deposit account number 18-2055.

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